

AMENDED IN ASSEMBLY APRIL 24, 2006

AMENDED IN ASSEMBLY APRIL 6, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2703

Introduced by Assembly Member Aghazarian

February 24, 2006

An act to ~~amend Sections 1266.1, 1569.23, 1569.24, 1569.616, 1569.871, 1575.7, 1797.172, 1797.191, 107080, 111615, 111625, 115065,~~ amend Sections 1266.1, 1569.23, 1569.24, 1569.616, 1797.172, 107080, 11615, 111625, 115065, 115080, 116735, and 117995 of, and to add Chapter 2.6 (commencing with Section 1499) to Division 2, and Sections 1522.08, 106722, 106877, and 117971 to, the Health and Safety Code, and to amend ~~Sections 5405 and~~ Section 5675.2 of, the Welfare and Institutions Code, relating to health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2703, as amended, Aghazarian. Health and human services.

Existing law provides for the licensure and regulation of health facilities by the State Department of Health Services, as defined. A violation of these provisions is a crime.

Existing law provides, however, that any new or renewal licensure application fees for psychiatric health facilities shall be collected by the State Department of Mental Health.

Existing law provides that the annual fee shall be waived for any health facility conducted, maintained, or operated by this state or any state department, authority, bureau, commission, or officer or by the Regents of the University of California, or by a local hospital district, city, county, or city and county.

This bill would eliminate the authority for the waiver of the fee for any psychiatric health facility operated by a local hospital district, city, county, or city and county.

This bill would create in the State Treasury the Mental Health Licensing and Certification Fund, for which moneys, upon appropriation by the Legislature, shall be expended by the State Department of Mental Health to fund administrative and other activities in support of the licensing and certification program administered by that department.

Under existing law, the State Department of Social Services regulates the licensure and operation of ~~various community care facilities, residential care facilities for the elderly and for persons with a chronic, life-threatening illness, and child day care facilities.~~ Existing law requires the department to inspect ~~certain~~ of these facilities within 90 days of initial licensure, to evaluate compliance with applicable rules and regulations, and to assess the facility's continuing ability to meet regulatory requirements.

~~Under existing law, licensees and other individuals who are present and provide care in these facilities are required to provide fingerprints and the department is required to secure the individual's criminal history, to determine whether he or she has been convicted of a crime other than a minor traffic violation, or convicted of specified sex-related offenses. Under existing law, violation of the provisions governing these facilities is a misdemeanor.~~

~~This bill would require an individual to obtain either a criminal record clearance from the Department of Justice or a criminal record exemption from the State Department of Social Services before his or her initial presence in any one of the above categories of facilities. The bill would require an applicant for facility licensure, or other specified individuals, to sign a declaration under penalty of perjury, disclosing any prior criminal convictions or arrests, or any prior disciplinary action taken against him or her by a governmental agency final administrative action taken against him or her in connection with the operation of a facility or institution, as specified. By expanding the crime of perjury, this bill would impose a state-mandated local program.~~

This bill would revise the above-described inspection requirements to require the licensee to notify the department that the facility has commenced operating; within 5 business days after accepting its first client for placement following initial licensure, and would then require

the department to conduct its inspection within 90 days after that date. *By revising the requirements relating to the licensure of these facilities, the bill would create a new crime, thus imposing a state-mandated local program.*

~~Existing law prohibits the Department of Justice and the State Department of Social Services from charging a fee for fingerprinting, or obtaining the criminal record of, an applicant for a license or special permit to operate certain community care facilities and day care facilities that serve 6 or fewer clients, but makes an exception to this prohibition for fiscal years 2003-04, 2004-05, and 2005-06.~~

~~This bill would extend this exception through the 2006-07 and 2007-08 fiscal years.~~

~~By changing the definition of an existing crime, and by expanding the crime of perjury, this bill would impose a state-mandated local program.~~

~~Under existing law, the department is required to comply with specified requirements before prohibiting a person from being employed or having contact with clients in any of the facilities described above, on the basis of a denied criminal record exemption request or arrest information.~~

~~This bill, notwithstanding existing law, would prohibit an individual whose request for an exemption has been denied, or whose exemption has been revoked, from seeking reinstatement or an exemption for 2 years. The bill would permanently exclude the individual if that individual's request for exemption was denied based on conviction for a crime for which no exemption may be granted.~~

This bill, in order to protect the health and safety of persons receiving care or services from individuals or facilities licensed and certified by the state, would authorize departments under the jurisdiction of the California Health and Human Services Agency to share information with respect to applicants, licensees, certificates, and individuals who have been the subject of disciplinary action. The bill would require the State Department of Social Services to maintain a centralized system for monitoring and tracking of administrative disciplinary actions, to be used by departments under the jurisdiction of the California Health and Human Services Agency as a part of the background check process. This bill would authorize the department to adopt regulations to implement these provisions, and to charge a fee to other departments under the agency's jurisdictions to cover the cost of providing the specified disciplinary information.

Existing law requires the Director of Social Services—in collaboration with specified entities, to develop and establish certification programs to ensure that ~~group home facility and adult residential care facility for the elderly~~ administrators have appropriate training to provide the care and services for which a license or certificate is issued. Existing law requires the department to administer a written test to applicants for certification as facility administrators, and to notify each applicant of his or her test results within 30 days.

This bill would authorize the department, in its discretion, to authorize vendors to conduct the written testing of facility administrators, as specified, ~~and would authorize the vendors to charge a fee for this service.~~ The bill would require the department to approve the test, and would require the vendor to notify the department and the applicant of the test results within 30 days after administering the test.

Existing law also requires a licensee or administrator applicant for a residential care facility for the elderly to complete a certification program approved by the department as a requirement for licensure or certification, which includes passing a written test.

This bill would authorize the department to authorize vendors to conduct the licensee's and administrator's testing programs, ~~and would authorize vendors to charge a fee for this service.~~ The bill would require the vendors to notify the applicant and department of the test results within 30 days after administering the test.

~~Existing law, the California Adult Day Health Care Act, requires that the State Department of Health Services, prior to issuing a new license under that act, conduct certain procedures in securing a criminal record clearance with respect to the administrator, program director, and fiscal officer of a proposed adult day health care center. Any violation of the provisions of that act is a crime.~~

~~This bill would revise those procedures by, among other things, prohibiting a person from direct contact with residents until completion of the criminal record clearance. By revising those procedures this bill would revise the definition of a crime, this resulting in a state-mandated local program.~~

Under existing law, the Emergency Medical Services Authority is responsible for establishing minimum standards and promulgating regulations for the training and scope of practice for emergency medical technicians-paramedic (EMT-P). ~~Existing law also requires~~

~~the authority to establish minimum standards for the training in pediatric first aid, pediatric CPR, and preventative health practices required by the California Child Day Care Act. Under existing law, these standards and regulations would be applicable to local governments, agencies, and other organizations that provide this training.~~

~~This bill would provide that for the first 6 months, an EMT-P license is provisional, and a pediatric first aid, pediatric CPR, or preventative health program approval is probationary. It would provide that during the provisional or probationary period, no vested right or property interest exists in the license or the training program approval. This bill would establish procedures applicable when the authority determines that a person who applies for approval or petitions for reinstatement previously applied for, or held, an approval for a pediatric first aid, pediatric CPR, or preventative health practices program, and the application was denied, or approval was revoked. The bill would specify the conditions under which the authority may rescind a provisional license or probationary training program approval.~~

~~The bill would impose a 2-year waiting period on a subsequent application or reinstatement petition under these circumstances, except as specified.~~

Under existing law, the department regulates the registration of environmental health specialists.

This bill would permit the department to deny, amend, revoke, suspend, or restrict a registration of an environmental health specialist when a person's background or behavior bears naturally on that person's ability to safely perform activities under the registration.

Existing law prohibits any person from manufacturing any drug or device in the state unless he or she has a valid license from the state and providing that the license is valid for one year from the date of issue, unless it is revoked.

This bill would extend the period of the license to *one or 2 calendar years from the date of issue, depending on the schedule agreed to in the manufacturer's licensing application*, unless it is revoked.

Existing law provides for the regulation and licensing of radioactive materials and persons generally licensed for the use of devices and equipment utilizing radioactive materials.

This bill would require the State Department of Health Services to establish fees *to recover actual costs* for followup inspections related to the failure to correct violations of those regulations.

Existing law, the California Safe Drinking Water Act, provides for the administration of that act and other provisions relating to the regulation of drinking water to protect public health by the State Department of Health Services. Existing law requires the department to inspect each public water system at least annually.

This bill would, instead, require that a public water system with surface water sources with treatment be inspected annually, a system with groundwater sources subject to treatment be inspected biennially, and a system with groundwater sources not subject to treatment be inspected every 3 years.

Existing law, the Medical Waste Management Act, provides for the regulation of medical waste by the State Department of Health Services.

Existing law provides for annual permit requirements for large quantity medical waste generators and medical waste treatment facilities, and specifies the annual fees that the department is required to collect for this permit registration process.

This bill would revise the fees to be charged for medical waste treatment plant facility permits, would revise the annual fees to be charged for those permits, and would authorize permits for those facilities and large quantity medical waste generators to be issued biennially.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1266.1 of the Health and Safety Code is
- 2 amended to read:
- 3 1266.1. (a) Each new or renewal application for a license for
- 4 a psychiatric health facility shall be accompanied by a fee equal

1 in amount to the fee for an acute psychiatric hospital as specified
2 in subdivision (a) of Section 1266 or, as modified by subdivision
3 (e).

4 (b) New or renewal licensure application fees for psychiatric
5 health facilities, pursuant to this section, shall be collected by the
6 State Department of Mental Health, and deposited into the
7 Mental Health Licensing and Certification Fund established
8 pursuant to Section ~~5675~~ 5675.2 of the Welfare and Institutions
9 Code.

10 (c) Moneys in the fund shall, upon appropriation by the
11 Legislature, be expended by the State Department of Mental
12 Health for the purpose of ensuring the health and safety of all
13 individuals provided care and supervision by licensees and to
14 support activities of the licensing and certification program,
15 including, but not limited to, monitoring facilities for compliance
16 with applicable laws and regulations.

17 (d) The State Department of Mental Health shall make
18 available to the Legislature and other interested parties, on or
19 before January 17 of each year, information describing program
20 costs within the State Department of Mental Health for licensure,
21 regulation, and monitoring of psychiatric health facilities.

22 (e) The annual fees shall be waived for any psychiatric health
23 facility conducted, maintained, or operated by this state or any
24 state department, authority, bureau, commission, or officer, or by
25 the Regents of the University of California, ~~or by a local hospital~~
26 ~~district, city, county, or city and county.~~

27 (f) If additional private psychiatric health facilities seek new
28 licensure on or after January 1, 1991, the State Department of
29 Mental Health may increase the fees for all private psychiatric
30 health facilities with more than nine beds sufficient to
31 accommodate the increased level of workload and costs.

32 (g) (1) The department may establish a probationary license
33 category for new licensees for up to 24 months and may, prior to
34 the completion of the 24-month period, terminate the license for
35 good cause.

36 (2) *In establishing good cause for imposing termination, the*
37 *department shall consider the gravity of the noncompliance with*
38 *acceptable standards of operation requiring termination, which*
39 *shall include all of the following:*

1 (A) *The degree of substantial probability that death or*
2 *physical harm to the client would result, and, if applicable, did*
3 *result from the noncompliance.*

4 (B) *The severity of serious physical harm to a client or guest*
5 *that was likely to result, and, if applicable, that did result from*
6 *the noncompliance.*

7 (C) *The extent of noncompliance with the provisions of the*
8 *applicable statutes or regulations.*

9 (D) *Mitigating circumstances, which shall include awareness*
10 *of the applicable statutes and regulations and reasonable*
11 *diligence in complying with those requirements, prior*
12 *accomplishments manifesting the licensee's desire to comply with*
13 *those requirements, and any other mitigating factors in favor of*
14 *the licensee.*

15 (E) *Any previous license citations and revocations committed*
16 *by the licensee.*

17 (h) (1) Any licensee desiring to obtain a special permit to
18 offer and provide structured outpatient services shall file an
19 application with the State Department of Mental Health.

20 (2) (A) The application for a special permit, if any, shall be
21 submitted with each new or renewal application for a license for
22 a psychiatric health facility, and shall be accompanied by a
23 reasonable fee, as determined by the State Department of Mental
24 Health, not to exceed the actual costs of administration related to
25 the special permit.

26 (B) The department may make additional charges with respect
27 to any facility, if additional visits are required to ensure that
28 corrective action is taken by the licensee. *These changes shall be*
29 *determined based upon actual personnel, travel, and operating*
30 *costs necessary for these purposes.*

31 (3) The State Department of Mental Health shall not issue a
32 special permit unless the applicant furnishes all of the following:

33 (A) Its annual licensing fee required pursuant to subdivision
34 (a).

35 (B) A completed application submitted on forms furnished by
36 the department.

37 (C) A written agreement ensuring that the facility will have
38 additional staffing for the services to be provided under the
39 special permit, that the additional staffing will meet the same
40 professional standards as required by regulation for inpatient

1 services, and that a coordinator of these services will be
2 appointed.

3 (D) Any other information or documentation as may be
4 required by the department for its proper and efficient
5 administration and enforcement of special permit services.

6 (4) The provision of structured outpatient services pursuant to
7 a special permit may be as an alternative to admission to
8 inpatient services, as aftercare services following discharge from
9 inpatient care, or as both.

10 (i) Any law enforcement agency that receives a report of an
11 incident at any facility licensed under this section shall notify the
12 State Department of Mental Health of incidents reported to it by
13 each facility *for which there is a direct law enforcement*
14 *involvement such as formal investigation or the filing of criminal*
15 *charges.*

16 SEC. 2. Chapter 2.6 (commencing with Section 1499) is
17 added to Division 2 of the Health and Safety Code, to read:

18
19 CHAPTER 2.6. USE OF ADMINISTRATIVE ACTION FOR
20 LICENSURE
21

22 1499. (a) Any person or entity licensed or certificated under
23 Chapter 1 (commencing with Section 1200), Chapter 2
24 (commencing with Section 1250), Chapter 2.3 (commencing with
25 Section 1400), Chapter 2.35 (commencing with Section 1416),
26 Chapter 3.3 (commencing with Section 1570), Chapter 8
27 (commencing with Section 1725), Chapter 8.3 (commencing with
28 Section 1743), Chapter 8.5 (commencing with Section 1745),
29 Chapter 8.6 (commencing with Section 1760), or Chapter 11
30 (commencing with Section 1794.01), or under Section 1247.6 of
31 the Business and Professions Code, shall, in addition to all other
32 requirements, disclose as part of the application, under penalty of
33 perjury, for the license or certificate any revocation or other
34 ~~disciplinary action taken or proposed~~ *final administrative action*
35 *taken* against a license, certificate, registration, or other approval
36 to engage in a profession, vocation, or occupation, or a license or
37 other permission to operate a facility or institution.

38 (b) The department may consider, in determining whether to
39 grant or deny the license or certification, any final revocation or
40 ~~other disciplinary action taken or proposed~~ *final administrative*

1 *action taken* against a license, certificate, registration, or other
2 permission to engage in a profession, vocation, or occupation or
3 a license or other permission to operate a facility or institution.

4 SEC. 3. Section 1522.08 is added to the Health and Safety
5 Code, to read:

6 1522.08. (a) In order to protect the health and safety of
7 persons receiving care or services from individuals or facilities
8 licensed or certified by the state, departments under the
9 jurisdiction of the California Health and Human Services Agency
10 may share information between departments within the agency
11 with respect to applicants, licensees, certificates, or individuals
12 who have been the subject of any ~~disciplinary~~ *administrative*
13 action resulting in the denial, suspension, probation, or
14 revocation of a license, permit, or certificate, or in the exclusion
15 of any person from a facility, as otherwise provided by law. The
16 State Department of Social Services shall maintain a centralized
17 system for the monitoring and tracking of ~~administrative~~
18 ~~disciplinary~~ *final administrative* actions, to be used by all
19 departments under the jurisdiction of the California Health and
20 Human Services Agency as a part of the background check
21 process.

22 (b) The State Department of Social Services, in consultation
23 with the other departments under the jurisdiction of the
24 California Health and Human Services Agency, may adopt
25 regulations to implement this section.

26 (c) The State Department of Social Services may charge a fee
27 to departments under the jurisdiction of the California Health and
28 Human Services Agency sufficient to cover the cost of providing
29 those departments with the ~~disciplinary record information~~ *final*
30 *administrative action* specified in subdivision (a).

31 SEC. 4. Section 1569.23 of the Health and Safety Code is
32 amended to read:

33 1569.23. (a) As a requirement for licensure, the applicant
34 shall demonstrate that he or she has successfully completed a
35 certification program approved by the department.

36 (b) The certification program shall be for a minimum of 40
37 hours of classroom instruction and include a uniform core of
38 knowledge which shall include all of the following:

39 (1) Law, regulations, policies, and procedural standards that
40 impact the operations of residential care facilities for the elderly.

- 1 (2) Business operations.
- 2 (3) Management and supervision of staff.
- 3 (4) Psychosocial need of the elderly residents.
- 4 (5) Physical needs for elderly residents.
- 5 (6) Community and support services.
- 6 (7) Use, misuse, and interaction of drugs commonly used by
- 7 the elderly.

- 8 (8) Resident admission, retention, and assessment procedures.

9 (c) Successful completion of the certification program shall be
10 demonstrated by both of the following:

11 (1) Passing a written test. The department, in its discretion,
12 may authorize vendors to conduct the administrator's testing
13 program pursuant to this section, ~~and the vendors may charge a~~
14 ~~fee for this service.~~ When the test is administered by an
15 authorized vendor, the vendor shall notify the applicant and the
16 department of the test results within 30 days after administering
17 the test.

18 (2) Submitting a fee of one hundred dollars (\$100) to the
19 department for the issuance of a certificate of completion.

20 (d) The department shall establish by regulation the program
21 content, the testing instrument, process for approving
22 certification programs, and criteria to be used for authorizing
23 individuals or organizations to conduct certification programs.
24 These regulations shall be developed with the participation of
25 provider organizations.

26 (e) This section shall apply to all applications for licensure
27 unless the applicant provides evidence that he or she has a
28 current license for another residential care facility for the elderly
29 which was initially licensed prior to July 1, 1989, or has
30 successfully completed an approved certification program within
31 the prior five years.

32 (f) If the applicant is a firm, partnership, association, or
33 corporation, the chief executive officer, or other person serving
34 in a like capacity, or the designated administrator of the facility
35 shall provide evidence of successfully completing an approved
36 certification program.

37 SEC. 5. Section 1569.24 of the Health and Safety Code is
38 amended to read:

39 1569.24. (a) Within 90 days after a facility accepts its first
40 client for placement following its initial licensure, the department

1 shall inspect the facility to evaluate compliance with rules and
2 regulations and to assess the facility's continuing ability to meet
3 regulatory requirements. The licensee shall notify the department
4 that the facility has commenced operating, within five business
5 days after accepting its first client for placement.

6 (b) The department may take appropriate remedial action as
7 provided for in this chapter.

8 SEC. 6. Section 1569.616 of the Health and Safety Code is
9 amended to read:

10 1569.616. (a) (1) An administrator of a residential care
11 facility for the elderly shall be required to successfully complete
12 a department approved certification program prior to
13 employment.

14 (2) In those cases where the individual is both the licensee and
15 the administrator of a facility, or a licensed nursing home
16 administrator, the individual shall comply with the requirements
17 of this section unless he or she qualifies for one of the
18 exemptions provided for in subdivision (b).

19 (3) Failure to comply with this section shall constitute cause
20 for revocation of the license of the facility where an individual is
21 functioning as the administrator.

22 (4) The licensee shall notify the department within 30 days of
23 any change in administrators.

24 (b) Individuals seeking exemptions under paragraph (2) of
25 subdivision (a) shall meet the following criteria and fulfill the
26 required portions of the certification program, as the case may
27 be:

28 (1) An individual designated as the administrator of a
29 residential care facility for the elderly who holds a valid license
30 as a nursing home administrator issued in accordance with
31 Chapter 2.35 (commencing with Section 1416) of Division 2 of
32 the Health and Safety Code shall be required to complete the
33 areas in the uniform core of knowledge required by this section
34 that pertain to the law, regulations, policies, and procedural
35 standards that impact the operations of residential care facilities
36 for the elderly, the use, misuse, and interaction of medication
37 commonly used by the elderly in a residential setting, and
38 resident admission, retention, and assessment procedures, equal
39 to 12 hours of classroom instruction. An individual meeting the

1 requirements of this paragraph shall not be required to take a
2 written test.

3 (2) In those cases where the individual was both the licensee
4 and administrator on or before July 1, 1991, the individual shall
5 be required to complete all the areas specified for the
6 certification program, but shall not be required to take the written
7 test required by this section. Those individuals exempted from
8 the written test shall be issued a conditional certification that is
9 valid only for the administrator of the facility for which the
10 exemption was granted.

11 (A) As a condition to becoming an administrator of another
12 facility, the individual shall be required to pass the written test
13 provided for in this section.

14 (B) As a condition to applying for a new facility license, the
15 individual shall be required to pass the written test provided for
16 in Section 1569.23.

17 (c) (1) The administrator certification program shall require a
18 minimum of 40 hours of classroom instruction that provides
19 training on a uniform core of knowledge in each of the following
20 areas:

21 (A) Laws, regulations, and policies and procedural standards
22 that impact the operations of residential care facilities for the
23 elderly.

24 (B) Business operations.

25 (C) Management and supervision of staff.

26 (D) Psychosocial needs of the elderly.

27 (E) Community and support services.

28 (F) Physical needs for elderly persons.

29 (G) Use, misuse, and interaction of medication commonly
30 used by the elderly.

31 (H) Resident admission, retention, and assessment procedures.

32 (I) Training focused specifically on serving clients with
33 dementia. This training shall be for at least four hours.

34 (2) (A) The department, in its discretion, may authorize
35 vendors to conduct the administrator's testing program pursuant
36 to this section, ~~and the vendors may charge a fee for this service.~~

37 (B) Individuals applying for initial certification under this
38 section shall successfully complete an approved certification
39 program, pass a written test approved by the department within
40 60 days of completing the program, and submit the

1 documentation required by subdivision (d) to the department
2 within 30 days of being notified of having passed the test. The
3 department may extend these time deadlines for good cause.
4 Where an authorized vendor administers the test, the vendor shall
5 notify the applicant and the department of the test results within
6 30 days after administering the test.

7 (d) The department shall not begin the process of issuing a
8 certificate until receipt of all of the following:

9 (1) A certificate of completion of the administrator training
10 required pursuant to this chapter.

11 (2) The fee required for issuance of the certificate. A fee of
12 one hundred dollars (\$100) shall be charged by the department to
13 cover the costs of processing the application for certification.

14 (3) Documentation of passing the written test or of qualifying
15 for an exemption pursuant to subdivision (b).

16 (4) Submission of fingerprints. The department and the
17 Department of Justice shall expedite the criminal record
18 clearance for holders of certificates of completion. The
19 department may waive the submission for those persons who
20 have a current criminal record clearance on file.

21 (e) It shall be unlawful for any person not certified under this
22 section to hold himself or herself out as a certified administrator
23 of a residential care facility for the elderly. Any person willfully
24 making any false representation as being a certified administrator
25 is guilty of a misdemeanor.

26 (f) (1) Certificates issued under this section shall be renewed
27 every two years and renewal shall be conditional upon the
28 certificate holder submitting documentation of completion of 40
29 hours of continuing education related to the core of knowledge
30 specified in paragraph (1) of subdivision (c). No more than
31 one-half of the required 40 hours of continuing education
32 necessary to renew the certificate may be satisfied through online
33 courses. For purposes of this section, individuals who hold a
34 valid license as a nursing home administrator issued in
35 accordance with Chapter 2.35 (commencing with Section 1416)
36 of Division 2 of the Health and Safety Code and meet the
37 requirements of paragraph (1) of subdivision (b) shall only be
38 required to complete 20 hours of continuing education.

39 (2) Every certified administrator of a residential care facility
40 for the elderly is required to renew his or her certificate and shall

1 complete the continuing education requirements of this
2 subdivision whether he or she is certified according to
3 subdivision (a) or (b). At least eight hours of the 40-hour
4 continuing education requirement for a certified administrator of
5 a residential care facility for the elderly shall include instruction
6 on serving clients with dementia, including, but not limited to,
7 instruction related to direct care, physical environment, and
8 admissions procedures and assessment.

9 (3) Certificates issued under this section shall expire every two
10 years, on the anniversary date of the initial issuance of the
11 certificate, except that any administrator receiving his or her
12 initial certification on or after January 1, 1999, shall make an
13 irrevocable election to have his or her recertification date for any
14 subsequent recertification either on the date two years from the
15 date of issuance of the certificate or on the individual's birthday
16 during the second calendar year following certification. The
17 department shall send a renewal notice to the certificate holder
18 90 days prior to the expiration date of the certificate. If the
19 certificate is not renewed prior to its expiration date,
20 reinstatement shall only be permitted after the certificate holder
21 has paid a delinquency fee equal to three times the renewal fee
22 and has provided evidence of completion of the continuing
23 education required.

24 (4) To renew a certificate, the certificate holder shall, on or
25 before the certificate expiration date, request renewal by
26 submitting to the department documentation of completion of the
27 required continuing education courses and pay the renewal fee of
28 one hundred dollars (\$100), irrespective of receipt of the
29 department's notification of the renewal. A renewal request
30 postmarked on or before the expiration of the certificate is proof
31 of compliance with this paragraph.

32 (5) A suspended or revoked certificate is subject to expiration
33 as provided for in this section. If reinstatement of the certificate
34 is approved by the department, the certificate holder, as a
35 condition precedent to reinstatement, shall pay a fee in an amount
36 equal to the renewal fee, plus the delinquency fee, if any, accrued
37 at the time of its revocation or suspension.

38 (6) A certificate that is not renewed within four years after its
39 expiration shall not be renewed, restored, reissued, or reinstated
40 except upon completion of a certification program, passing any

1 test that may be required of an applicant for a new certificate at
2 that time, and paying the appropriate fees provided for in this
3 section.

4 (7) A fee of twenty-five dollars (\$25) shall be charged for the
5 reissuance of a lost certificate.

6 (8) A certificate holder shall inform the department of his or
7 her employment status within 30 days of any change.

8 (g) The department may revoke a certificate issued under this
9 section for any of the following:

10 (1) Procuring a certificate by fraud or misrepresentation.

11 (2) Knowingly making or giving any false statement or
12 information in conjunction with the application for issuance of a
13 certificate.

14 (3) Criminal conviction unless an exemption is granted
15 pursuant to Section 1569.17.

16 (h) The certificate shall be considered forfeited under either of
17 the following conditions:

18 (1) The administrator has had a license revoked, suspended, or
19 denied as authorized under Section 1569.50.

20 (2) The administrator has been denied employment, residence,
21 or presence in a facility based on action resulting from an
22 administrative hearing pursuant to Section 1569.58.

23 (i) (1) The department shall establish, by regulation, the
24 program content, the testing instrument, the process for
25 approving certification programs, and criteria to be used in
26 authorizing individuals, organizations, or educational institutions
27 to conduct certification programs and continuing education
28 courses. These regulations shall be developed in consultation
29 with provider and consumer organizations, and shall be made
30 available at least six months prior to the deadline required for
31 certification. The department may deny vendor approval to any
32 agency or person that has not provided satisfactory evidence of
33 their ability to meet the requirements of vendorization set out in
34 the regulations adopted pursuant to subdivision (j).

35 (2) (A) A vendor of online programs for continuing education
36 shall ensure that each online course contains all of the following:

37 (i) An interactive portion where the participant receives
38 feedback, through online communication, based on input from
39 the participant.

1 (ii) Required use of a personal identification number or
2 personal identification information to confirm the identity of the
3 participant.

4 (iii) A final screen displaying a printable statement, to be
5 signed by the participant, certifying that the identified participant
6 completed the course. The vendor shall obtain a copy of the final
7 screen statement with the original signature of the participant
8 prior to the issuance of a certificate of completion. The signed
9 statement of completion shall be maintained by the vendor for a
10 period of three years and be available to the department upon
11 demand. Any person who certifies as true any material matter
12 pursuant to this section that he or she knows to be false is guilty
13 of a misdemeanor.

14 (B) Nothing in this subdivision shall prohibit the department
15 from approving online programs for continuing education that do
16 not meet the requirements of subparagraph (A) if the vendor
17 demonstrates to the department's satisfaction that, through
18 advanced technology, the course and the course delivery meet the
19 requirements of this section.

20 (3) The department may authorize vendors to conduct the
21 administrator certification training program pursuant to
22 provisions set forth in this section. The department shall ensure
23 that the written test is conducted pursuant to regulations adopted
24 by the department.

25 (4) The department shall prepare and maintain an updated list
26 of approved training and testing vendors.

27 (5) The department may inspect training and testing programs,
28 continuing education courses, and online courses, at no charge to
29 the department, in order to determine if content and teaching
30 methods comply with paragraphs (1) and (2), if applicable, and
31 with regulations. If the department determines that any vendor is
32 not complying with the intent of this section, the department shall
33 take appropriate action to bring the program into compliance,
34 which may include removing the vendor from the approved list.

35 (6) The department shall establish reasonable procedures and
36 timeframes, not to exceed 30 days, for the approval of vendor
37 training programs.

38 (7) The department may charge a reasonable fee, not to exceed
39 one hundred fifty dollars (\$150) every two years, to certification
40 program vendors for review and approval of the initial 40-hour

1 training program pursuant to subdivision (c). The department
2 may also charge the vendor a fee, not to exceed one hundred
3 dollars (\$100) every two years, for the review and approval of
4 the continuing education courses needed for recertification
5 pursuant to this subdivision.

6 (j) This section shall be operative upon regulations being
7 adopted by the department to implement the administrator
8 certification program as provided for in this section.

9 (k) The department shall establish a registry for holders of
10 certificates that shall include, at a minimum, information on
11 employment status and criminal record clearance.

12 (l) Notwithstanding any provision of law to the contrary,
13 vendors approved by the department who exclusively provide
14 either initial or continuing education courses for certification of
15 administrators of a residential care facility for the elderly, as
16 defined in subdivision (k) of Section 1569.2, a group home
17 facility, as defined by regulations of the department, or an adult
18 residential care facility, as defined by regulations of the
19 department, shall be regulated solely by the department pursuant
20 to this chapter. No other state or local governmental entity shall
21 be responsible for regulating the activity of those vendors.

22 SEC. 7. ~~Section 1596.871 of the Health and Safety Code is~~
23 ~~amended to read:~~

24 ~~1596.871. The Legislature recognizes the need to generate~~
25 ~~timely and accurate positive fingerprint identification of~~
26 ~~applicants as a condition of issuing licenses, permits, or~~
27 ~~certificates of approval for persons to operate or provide direct~~
28 ~~care services in a child care center or family child care home.~~
29 ~~Therefore, the Legislature supports the use of the fingerprint~~
30 ~~live-scan technology, as defined in the long-range plan of the~~
31 ~~Department of Justice for fully automating the processing of~~
32 ~~fingerprints and other data by the year 1999, otherwise known as~~
33 ~~the California Crime Information Intelligence System (CAL-CII),~~
34 ~~to be used for applicant fingerprints. It is the intent of the~~
35 ~~Legislature in enacting this section to require the fingerprints of~~
36 ~~those individuals whose contact with child day care facility~~
37 ~~clients may pose a risk to the children's health and safety. An~~
38 ~~individual shall be required to obtain either a criminal record~~
39 ~~clearance from the Department of Justice or a criminal record~~

1 exemption from the State Department of Social Services before
2 his or her initial presence in a child day care facility.

3 (a) (1) Before issuing a license or special permit to any person
4 to operate or manage a day care facility, the department shall
5 secure from an appropriate law enforcement agency a criminal
6 record to determine whether the applicant or any other person
7 specified in subdivision (b) has ever been convicted of a crime
8 other than a minor traffic violation or arrested for any crime
9 specified in Section 290 of the Penal Code, for violating Section
10 245 or 273.5, subdivision (b) of Section 273a or, prior to January
11 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for
12 any crime for which the department cannot grant an exemption if
13 the person was convicted and the person has not been exonerated.

14 (2) The criminal history information shall include the full
15 criminal record, if any, of those persons, and subsequent arrest
16 information pursuant to Section 11105.2 of the Penal Code.

17 (3) Except during the 2003-04, 2004-05, 2005-06, 2006-07,
18 and 2007-08 fiscal years, neither the Department of Justice nor
19 the department may charge a fee for the fingerprinting of an
20 applicant who will serve six or fewer children or any family day
21 care applicant for a license, or for obtaining a criminal record of
22 an applicant pursuant to this section.

23 (4) The following shall apply to the criminal record
24 information:

25 (A) If the State Department of Social Services finds that the
26 applicant or any other person specified in subdivision (b) has
27 been convicted of a crime, other than a minor traffic violation,
28 the application shall be denied, unless the director grants an
29 exemption pursuant to subdivision (f).

30 (B) If the State Department of Social Services finds that the
31 applicant, or any other person specified in subdivision (b), is
32 awaiting trial for a crime other than a minor traffic violation, the
33 State Department of Social Services may cease processing the
34 application until the conclusion of the trial.

35 (C) If no criminal record information has been recorded, the
36 Department of Justice shall provide the applicant and the State
37 Department of Social Services with a statement of that fact.

38 (D) If the State Department of Social Services finds after
39 licensure that the licensee, or any other person specified in
40 paragraph (2) of subdivision (b), has been convicted of a crime

1 other than a minor traffic violation, the license may be revoked,
2 unless the director grants an exemption pursuant to subdivision
3 (f).

4 (E) An applicant and any other person specified in subdivision
5 (b) shall submit a second set of fingerprints to the Department of
6 Justice, for the purpose of searching the records of the Federal
7 Bureau of Investigation, in addition to the search required by
8 subdivision (a). If an applicant meets all other conditions for
9 licensure, except receipt of the Federal Bureau of Investigation's
10 criminal history information for the applicant and persons listed
11 in subdivision (b), the department may issue a license if the
12 applicant and each person described by subdivision (b) has
13 signed and submitted a statement that he or she has never been
14 convicted of a crime in the United States, other than a traffic
15 infraction as defined in paragraph (1) of subdivision (a) of
16 Section 42001 of the Vehicle Code. If, after licensure, the
17 department determines that the licensee or person specified in
18 subdivision (b) has a criminal record, the license may be revoked
19 pursuant to Section 1596.885. The department may also suspend
20 the license pending an administrative hearing pursuant to Section
21 1596.886.

22 (F) An applicant and any other person specified in subdivision
23 (b), as a part of the background clearance process, shall sign a
24 declaration under penalty of perjury disclosing whether or not the
25 person has any prior criminal convictions or arrests, or has had
26 any prior disciplinary action taken against him or her by any
27 federal, state, or local governmental agency.

28 (b) (1) In addition to the applicant, this section shall be
29 applicable to criminal convictions of the following persons:

30 (A) Adults responsible for administration or direct supervision
31 of staff.

32 (B) Any person, other than a child, residing in the facility.

33 (C) Any person who provides care and supervision to the
34 children.

35 (D) Any staff person, volunteer, or employee who has contact
36 with the children.

37 (i) A volunteer providing time-limited specialized services
38 shall be exempt from the requirements of this subdivision if this
39 person is directly supervised by the licensee or a facility
40 employee with a criminal record clearance or exemption, the

1 volunteer spends no more than 16 hours per week at the facility;
2 and the volunteer is not left alone with children in care.

3 (ii) ~~A student enrolled or participating at an accredited~~
4 ~~educational institution shall be exempt from the requirements of~~
5 ~~this subdivision if the student is directly supervised by the~~
6 ~~licensee or a facility employee with a criminal record clearance~~
7 ~~or exemption, the facility has an agreement with the educational~~
8 ~~institution concerning the placement of the student, the student~~
9 ~~spends no more than 16 hours per week at the facility, and the~~
10 ~~student is not left alone with children in care.~~

11 (iii) ~~A volunteer who is a relative, legal guardian, or foster~~
12 ~~parent of a client in the facility shall be exempt from the~~
13 ~~requirements of this subdivision.~~

14 (iv) ~~A contracted repair person retained by the facility, if not~~
15 ~~left alone with children in care, shall be exempt from the~~
16 ~~requirements of this subdivision.~~

17 (v) ~~Any person similar to those described in this subdivision,~~
18 ~~as defined by the department in regulations.~~

19 (E) ~~If the applicant is a firm, partnership, association, or~~
20 ~~corporation, the chief executive officer, other person serving in~~
21 ~~like capacity, or a person designated by the chief executive~~
22 ~~officer as responsible for the operation of the facility, as~~
23 ~~designated by the applicant agency.~~

24 (F) ~~If the applicant is a local educational agency, the president~~
25 ~~of the governing board, the school district superintendent, or a~~
26 ~~person designated to administer the operation of the facility, as~~
27 ~~designated by the local educational agency.~~

28 (G) ~~Additional officers of the governing body of the applicant,~~
29 ~~or other persons with a financial interest in the applicant, as~~
30 ~~determined necessary by the department by regulation. The~~
31 ~~criteria used in the development of these regulations shall be~~
32 ~~based on the person's capability to exercise substantial influence~~
33 ~~over the operation of the facility.~~

34 (H) ~~This section does not apply to employees of child care and~~
35 ~~development programs under contract with the State Department~~
36 ~~of Education who have completed a criminal records clearance as~~
37 ~~part of an application to the Commission on Teacher~~
38 ~~Credentialing, and who possess a current credential or permit~~
39 ~~issued by the commission, including employees of child care and~~
40 ~~development programs that serve both children subsidized under,~~

1 and children not subsidized under, a State Department of
2 Education contract. The Commission on Teacher Credentialing
3 shall notify the department upon revocation of a current
4 credential or permit issued to an employee of a child care and
5 development program under contract with the State Department
6 of Education.

7 (I) This section does not apply to employees of a child care
8 and development program operated by a school district, county
9 office of education, or community college district under contract
10 with the State Department of Education who have completed a
11 criminal record clearance as a condition of employment. The
12 school district, county office of education, or community college
13 district upon receiving information that the status of an
14 employee's criminal record clearance has changed shall submit
15 that information to the department.

16 (2) Nothing in this subdivision shall prevent a licensee from
17 requiring a criminal record clearance of any individuals exempt
18 from the requirements under this subdivision.

19 (e) (1) (A) Subsequent to initial licensure, any person
20 specified in subdivision (b) and not exempted from fingerprinting
21 shall, as a condition to employment, residence, or presence in a
22 child day care facility be fingerprinted and sign a declaration
23 under penalty of perjury regarding any prior criminal conviction.
24 The licensee shall submit these fingerprints to the Department of
25 Justice, along with a second set of fingerprints for the purpose of
26 searching the records of the Federal Bureau of Investigation, or
27 to comply with paragraph (1) of subdivision (h), prior to the
28 person's employment, residence, or initial presence in the child
29 day care facility.

30 (B) These fingerprints shall be on a card provided by the State
31 Department of Social Services for the purpose of obtaining a
32 permanent set of fingerprints and submitted to the Department of
33 Justice by the licensee or sent by electronic transmission in a
34 manner approved by the State Department of Social Services. A
35 licensee's failure to submit fingerprints to the Department of
36 Justice, or to comply with paragraph (1) of subdivision (h), as
37 required in this section, shall result in the citation of a deficiency;
38 and an immediate assessment of civil penalties in the amount of
39 one hundred dollars (\$100) per violation, per day for a maximum
40 of five days, unless the violation is a second or subsequent

1 ~~violation within a 12-month period in which case the civil~~
2 ~~penalties shall be in the amount of one hundred dollars (\$100)~~
3 ~~per violation for a maximum of 30 days, and shall be grounds for~~
4 ~~disciplining the licensee pursuant to Section 1596.885 or Section~~
5 ~~1596.886. The State Department of Social Services may assess~~
6 ~~civil penalties for continued violations permitted by Sections~~
7 ~~1596.99 and 1597.62. The fingerprints shall then be submitted to~~
8 ~~the State Department of Social Services for processing. Within~~
9 ~~14 calendar days of the receipt of the fingerprints, the~~
10 ~~Department of Justice shall notify the State Department of Social~~
11 ~~Services of the criminal record information, as provided in this~~
12 ~~subdivision. If no criminal record information has been recorded,~~
13 ~~the Department of Justice shall provide the licensee and the State~~
14 ~~Department of Social Services with a statement of that fact~~
15 ~~within 14 calendar days of receipt of the fingerprints. If new~~
16 ~~fingerprints are required for processing, the Department of~~
17 ~~Justice shall, within 14 calendar days from the date of receipt of~~
18 ~~the fingerprints, notify the licensee that the fingerprints were~~
19 ~~illegible.~~

20 ~~(C) Documentation of the individual's clearance or exemption~~
21 ~~shall be maintained by the licensee, and shall be available for~~
22 ~~inspection. When live-scan technology is operational, as defined~~
23 ~~in Section 1522.04, the Department of Justice shall notify the~~
24 ~~department, as required by that section, and notify the licensee by~~
25 ~~mail within 14 days of electronic transmission of the fingerprints~~
26 ~~to the Department of Justice, if the person has no criminal record.~~
27 ~~Any violation of the regulations adopted pursuant to Section~~
28 ~~1522.04 shall result in the citation of a deficiency and an~~
29 ~~immediate assessment of civil penalties in the amount of one~~
30 ~~hundred dollars (\$100) per violation, per day for a maximum of~~
31 ~~five days, unless the violation is a second or subsequent violation~~
32 ~~within a 12-month period in which case the civil penalties shall~~
33 ~~be in the amount of one hundred dollars (\$100) per violation for~~
34 ~~a maximum of 30 days, and shall be grounds for disciplining the~~
35 ~~licensee pursuant to Section 1596.885 or Section 1596.886. The~~
36 ~~department may assess civil penalties for continued violations, as~~
37 ~~permitted by Sections 1596.99 and 1597.62.~~

38 ~~(2) Except for persons specified in paragraph (2) of~~
39 ~~subdivision (b), the licensee shall endeavor to ascertain the~~
40 ~~previous employment history of persons required to be~~

1 fingerprinted under this subdivision. If it is determined by the
2 department, on the basis of fingerprints submitted to the
3 Department of Justice, that the person has been convicted of a
4 sex offense against a minor, an offense specified in Section
5 243.4, 273a, 273d, 273g, or 368 of the Penal Code, or a felony,
6 the State Department of Social Services shall notify the licensee
7 to act immediately to terminate the person's employment,
8 remove the person from the child day care facility, or bar the
9 person from entering the child day care facility. The department
10 may subsequently grant an exemption pursuant to subdivision (f).
11 If the conviction was for another crime except a minor traffic
12 violation, the licensee shall, upon notification by the State
13 Department of Social Services, act immediately to either (1)
14 terminate the person's employment, remove the person from the
15 child day care facility, or bar the person from entering the child
16 day care facility; or (2) seek an exemption pursuant to
17 subdivision (f). The department shall determine if the person
18 shall be allowed to remain in the facility until a decision on the
19 exemption is rendered. A licensee's failure to comply with the
20 department's prohibition of employment, contact with clients, or
21 presence in the facility as required by this paragraph shall result
22 in a citation of deficiency and an immediate assessment of civil
23 penalties by the department against the licensee, in the amount of
24 one hundred dollars (\$100) per violation, per day for a maximum
25 of five days, unless the violation is a second or subsequent
26 violation within a 12-month period in which case the civil
27 penalties shall be in the amount of one hundred dollars (\$100)
28 per violation for a maximum of 30 days, and shall be grounds for
29 disciplining the licensee pursuant to Section 1596.885 or
30 1596.886.

31 (3) The department may issue an exemption on its own motion
32 pursuant to subdivision (f) if the person's criminal history
33 indicates that the person is of good character based on the age,
34 seriousness, and frequency of the conviction or convictions. The
35 department, in consultation with interested parties, shall develop
36 regulations to establish the criteria to grant an exemption
37 pursuant to this paragraph.

38 (4) Concurrently with notifying the licensee pursuant to
39 paragraph (3), the department shall notify the affected individual
40 of his or her right to seek an exemption pursuant to subdivision

1 ~~(f). The individual may seek an exemption only if the licensee~~
2 ~~terminates the person's employment or removes the person from~~
3 ~~the facility after receiving notice from the department pursuant to~~
4 ~~paragraph (3).~~

5 ~~(d) (1) For purposes of this section or any other provision of~~
6 ~~this chapter, a conviction means a plea or verdict of guilty or a~~
7 ~~conviction following a plea of nolo contendere. Any action that~~
8 ~~the department is permitted to take following the establishment~~
9 ~~of a conviction may be taken when the time for appeal has~~
10 ~~elapsed, when the judgment of conviction has been affirmed on~~
11 ~~appeal, or when an order granting probation is made suspending~~
12 ~~the imposition of sentence, notwithstanding a subsequent order~~
13 ~~pursuant to Sections 1203.4 and 1203.4a of the Penal Code~~
14 ~~permitting the person to withdraw his or her plea of guilty and to~~
15 ~~enter a plea of not guilty, or setting aside the verdict of guilty, or~~
16 ~~dismissing the accusation, information, or indictment. For~~
17 ~~purposes of this section or any other provision of this chapter, the~~
18 ~~record of a conviction, or a copy thereof certified by the clerk of~~
19 ~~the court or by a judge of the court in which the conviction~~
20 ~~occurred, shall be conclusive evidence of the conviction. For~~
21 ~~purposes of this section or any other provision of this chapter, the~~
22 ~~arrest disposition report certified by the Department of Justice, or~~
23 ~~documents admissible in a criminal action pursuant to Section~~
24 ~~969b of the Penal Code, shall be prima facie evidence of~~
25 ~~conviction, notwithstanding any other provision of law~~
26 ~~prohibiting the admission of these documents in a civil or~~
27 ~~administrative action.~~

28 ~~(2) For purposes of this section or any other provision of this~~
29 ~~chapter, the department shall consider criminal convictions from~~
30 ~~another state or federal court as if the criminal offense was~~
31 ~~committed in this state.~~

32 ~~(e) The State Department of Social Services may not use a~~
33 ~~record of arrest to deny, revoke, or terminate any application,~~
34 ~~license, employment, or residence unless the department~~
35 ~~investigates the incident and secures evidence, whether or not~~
36 ~~related to the incident of arrest, that is admissible in an~~
37 ~~administrative hearing to establish conduct by the person that~~
38 ~~may pose a risk to the health and safety of any person who is or~~
39 ~~may become a client. The State Department of Social Services is~~
40 ~~authorized to obtain any arrest or conviction records or reports~~

1 from any law enforcement agency as necessary to the
2 performance of its duties to inspect, license, and investigate
3 community care facilities and individuals associated with a
4 community care facility.

5 (f) (1) After review of the record, the director may grant an
6 exemption from disqualification for a license or special permit as
7 specified in paragraphs (1) and (4) of subdivision (a), or for
8 employment, residence, or presence in a child day care facility as
9 specified in paragraphs (3), (4), and (5) of subdivision (c) if the
10 director has substantial and convincing evidence to support a
11 reasonable belief that the applicant and the person convicted of
12 the crime, if other than the applicant, are of good character so as
13 to justify issuance of the license or special permit or granting an
14 exemption for purposes of subdivision (c). However, an
15 exemption may not be granted pursuant to this subdivision if the
16 conviction was for any of the following offenses:

17 (A) An offense specified in Section 220, 243.4, or 264.1,
18 subdivision (a) of Section 273a or, prior to January 1, 1994,
19 paragraph (1) of Section 273a, Section 273d, 288, or 289,
20 subdivision (a) of Section 290, or Section 368 of the Penal Code;
21 or was a conviction of another crime against an individual
22 specified in subdivision (c) of Section 667.5 of the Penal Code.

23 (B) A felony offense specified in Section 729 of the Business
24 and Professions Code or Section 206 or 215, subdivision (a) of
25 Section 347, subdivision (b) of Section 417, or subdivision (a) or
26 (b) of Section 451 of the Penal Code.

27 (2) The department may not prohibit a person from being
28 employed or having contact with clients in a facility on the basis
29 of a denied criminal record exemption request or arrest
30 information unless the department complies with the
31 requirements of Section 1596.8897. Notwithstanding
32 subparagraph (B) of paragraph (1) of, and subparagraph (B) of
33 paragraph (2) of, subdivision (h) of Section 1596.8897, if a
34 request for an exemption has been denied, or an exemption has
35 been revoked, the individual shall be prohibited for a period of
36 two years from seeking reinstatement or an exemption, unless the
37 individual has been convicted of a crime for which no exemption
38 can be granted. If a request for an exemption has been denied
39 based on conviction for a crime for which no exemption may be

1 granted, the individual shall be excluded for the remainder of his
2 or her life.

3 ~~(g) Upon request of the licensee, who shall enclose a~~
4 ~~self-addressed stamped postcard for this purpose, the Department~~
5 ~~of Justice shall verify receipt of the fingerprints.~~

6 ~~(h) (1) For the purposes of compliance with this section, the~~
7 ~~department may permit an individual to transfer a current~~
8 ~~criminal record clearance, as defined in subdivision (a), from one~~
9 ~~facility to another, as long as the criminal record clearance has~~
10 ~~been processed through a state licensing district office, and is~~
11 ~~being transferred to another facility licensed by a state licensing~~
12 ~~district office. The request shall be in writing to the department,~~
13 ~~and shall include a copy of the person's driver's license or valid~~
14 ~~identification card issued by the Department of Motor Vehicles;~~
15 ~~or a valid photo identification issued by another state or the~~
16 ~~United States government if the person is not a California~~
17 ~~resident. Upon request of the licensee, who shall enclose a~~
18 ~~self-addressed stamped envelope for this purpose, the department~~
19 ~~shall verify whether the individual has a clearance that can be~~
20 ~~transferred.~~

21 ~~(2) The State Department of Social Services shall hold~~
22 ~~criminal record clearances in its active files for a minimum of~~
23 ~~two years after an employee is no longer employed at a licensed~~
24 ~~facility in order for the criminal record clearances to be~~
25 ~~transferred.~~

26 ~~(3) The following shall apply to a criminal record clearance or~~
27 ~~exemption from the department or a county office with~~
28 ~~department delegated licensing authority:~~

29 ~~(A) A county office with department delegated licensing~~
30 ~~authority may accept a clearance or exemption from the~~
31 ~~department.~~

32 ~~(B) The department may accept a clearance or exemption from~~
33 ~~any county office with department delegated licensing authority.~~

34 ~~(C) A county office with department delegated licensing~~
35 ~~authority may accept a clearance or exemption from any other~~
36 ~~county office with department delegated licensing authority.~~

37 ~~(4) With respect to notifications issued by the Department of~~
38 ~~Justice pursuant to Section 11105.2 of the Penal Code concerning~~
39 ~~an individual whose criminal record clearance was originally~~

1 processed by the department or a county office with department
2 delegated licensing authority, all of the following shall apply:

3 (A) The Department of Justice shall process a request from the
4 department or a county office with department delegated
5 licensing authority to receive the notice, only if all of the
6 following conditions are met:

7 (i) The request shall be submitted to the Department of Justice
8 by the agency to be substituted to receive the notification.

9 (ii) The request shall be for the same applicant type as the type
10 for which the original clearance was obtained.

11 (iii) The request shall contain all prescribed data elements and
12 format protocols pursuant to a written agreement between the
13 department and the Department of Justice.

14 (B) (i) On or before January 7, 2005, the department shall
15 notify the Department of Justice of all county offices that have
16 department delegated licensing authority.

17 (ii) The department shall notify the Department of Justice
18 within 15 calendar days of the date on which a new county office
19 receives department delegated licensing authority or a county's
20 delegated licensing authority is rescinded.

21 (C) The Department of Justice shall charge the department or
22 a county office with department delegated licensing authority a
23 fee for each time a request to substitute the recipient agency is
24 received for purposes of this paragraph. This fee shall not exceed
25 the cost of providing the service.

26 (i) Amendments to this section made in the 1998 calendar year
27 shall be implemented commencing 60 days after the effective
28 date of the act amending this section in the 1998 calendar year,
29 except those provisions for the submission of fingerprints for
30 searching the records of the Federal Bureau of Investigation,
31 which shall be implemented commencing January 1, 1999.

32 SEC. 8. Section 1575.7 of the Health and Safety Code is
33 amended to read:

34 1575.7. (a) (1) The State Department of Health Services,
35 prior to issuing a new license, shall obtain a criminal clearance
36 for the administrator, program director, and fiscal officer of the
37 proposed adult day health care center. The state department shall
38 obtain the criminal records clearances each time these positions
39 are to be filled. These criminal record clearances, in accordance

1 with subdivisions (b) and (c), shall be completed prior to direct
2 contact with residents.

3 (2) A criminal record clearance shall be complete when the
4 department has obtained the person's criminal record information
5 from the Department of Justice and has determined that the
6 person is not disqualified from engaging in the activity for which
7 clearance is required.

8 (3) The criminal record clearance shall require the
9 administrator, program director, and fiscal officer to submit
10 electronic fingerprint images to the department.

11 (b) A past conviction of any crime, especially any crime
12 involving misuse of funds or involving physical abuse shall, in
13 the discretion of the department, be grounds for denial of the
14 license, and shall be grounds to prohibit the person from
15 providing services in an adult day health care center.

16 (c) Suspension of the applicant from the Medi-Cal program or
17 prior violations of statutory provisions or regulations relating to
18 licensure of a health facility, community care facility, or clinic
19 shall also be grounds for a denial of licensure, where determined
20 by the state department to indicate a substantial probability that
21 the applicant will not comply with this chapter and regulations
22 adopted hereunder.

23 (d) No applicant which is licensed as a health facility,
24 community care facility, or clinic may be issued a license for an
25 adult day health care center while there exists a subsisting,
26 uncorrected violation of the statutes or regulations relating to
27 such licensure.

28 (e) A person subject to a criminal clearance under this section
29 that has been disqualified from engaging in the activity for which
30 clearance is required shall not reapply for licensure until two
31 years after notification of denial of the criminal clearance.

32 (f) The department shall develop procedures to ensure that any
33 licensee, direct care staff, or certificate holder for whom a
34 criminal record has been obtained pursuant to this section or
35 Section 1265.5 or 1736 shall not be required to obtain multiple
36 criminal record clearances.

37 ~~SEC. 9.~~

38 *SEC. 7.* Section 1797.172 of the Health and Safety Code is
39 amended to read:

1 1797.172. (a) The authority shall develop, and after the
2 approval of the commission pursuant to Section 1799.50, shall
3 adopt, minimum standards for the training and scope of practice
4 for EMT-P.

5 (b) The approval of the director, in consultation with a
6 committee of local EMS medical directors named by the EMS
7 Medical Directors Association of California, is required prior to
8 implementation of any addition to a local optional scope of
9 practice for EMT-Ps proposed by the medical director of a local
10 EMS agency.

11 (c) (1) Notwithstanding any other provision of law, the
12 authority shall be the agency solely responsible for licensure and
13 licensure renewal of EMT-Ps who meet the standards and are not
14 precluded from licensure because of any of the reasons listed in
15 subdivision (c) of Section 1798.200.

16 (2) Each application for licensure or licensure renewal shall
17 require the applicant's social security number in order to
18 establish the identity of the applicant. Each applicant shall submit
19 his or her fingerprint images, via live scan or another means for
20 criminal record checks that is approved by the Department of
21 Justice, with the Department of Justice and the Federal Bureau of
22 Investigation, in order to determine whether the applicant has any
23 criminal convictions in this state or any other jurisdiction,
24 including foreign countries. The information obtained as a result
25 of obtaining the applicant's social security number and the
26 applicant's submission of fingerprint images shall be used in
27 accordance with Section 11105 of the Penal Code, and to
28 determine whether the applicant is subject to denial of licensure
29 or licensure renewal pursuant to this division. Submission of
30 fingerprint images may not be required for licensure renewal
31 upon determination by the authority that fingerprint images were
32 already obtained during initial licensure, or a previous licensure
33 renewal, provided that the license has not lapsed and the
34 applicant has resided continuously in the state since the initial
35 licensure.

36 (3) An initial EMT-P license shall be considered provisional
37 for the first six months of the initial two-year licensure cycle,
38 during which time the EMT-P shall not possess a vested right or
39 property interest in the license. Upon receipt of credible evidence
40 of a violation of subdivision (c) of Section 1798.200, the

1 authority may rescind the provisional licence by providing
2 written notice to the EMT-P at his or her last known address on
3 file with the authority, and by providing notice to the EMT-P's
4 employer, if known. An EMT-P whose provisional license is
5 rescinded shall have all the due process rights associated with the
6 denial of an EMT-P license.

7 (d) The authority shall charge fees for the licensure and
8 licensure renewal of EMT-Ps in an amount sufficient to support
9 the authority's licensure program at a level that ensures the
10 qualifications of the individuals licensed to provide quality care.
11 The basic fee for licensure or licensure renewal of an EMT-P
12 shall not exceed one hundred twenty-five dollars (\$125).
13 Separate additional fees may be charged, at the option of the
14 authority, for services that are not shared by all applicants for
15 licensure and licensure renewal, including, but not limited to, any
16 of the following services:

17 (1) Initial application for licensure as an EMT-P.

18 (2) Competency testing, the fee for which shall not exceed
19 thirty dollars (\$30), except that an additional fee may be charged
20 for the cost of any services that provide enhanced availability of
21 the exam for the convenience of the EMT-P, such as on-demand
22 electronic testing.

23 (3) Fingerprint and criminal record check. The applicant shall,
24 if applicable according to subdivision (c), submit two fingerprint
25 cards for criminal record checks with the Department of Justice
26 and the Federal Bureau of Investigation.

27 (4) Out-of-state training equivalency determination.

28 (5) Verification of continuing education for a lapse in
29 licensure.

30 (6) Replacement of a lost licensure card. The fees charged for
31 individual services shall be set so that the total fees charged to
32 EMT-Ps shall not exceed the authority's actual total cost for the
33 EMT-P licensure program.

34 (e) The authority may provide nonconfidential, nonpersonal
35 information relating to EMS programs to interested persons upon
36 request, and may establish and assess fees for the provision of
37 this information. These fees shall not exceed the costs of
38 providing the information.

39 (f) At the option of the authority, fees may be collected for the
40 authority by an entity that contracts with the authority to provide

1 any of the services associated with the EMT-P program. All fees
2 collected for the authority in a calendar month by any entity
3 designated by the authority pursuant to this section to collect fees
4 for the authority shall be transmitted to the authority for deposit
5 into the Emergency Medical Services Personnel Fund within 30
6 calendar days following the last day of the calendar month in
7 which the fees were received by the designated entity, unless the
8 contract between the entity and the authority specifies a different
9 timeframe.

10 ~~SEC. 10. Section 1797.191 of the Health and Safety Code is~~
11 ~~amended to read:~~

12 ~~1797.191. (a) The authority shall establish minimum~~
13 ~~standards for the training in pediatric first aid, pediatric~~
14 ~~cardiopulmonary resuscitation (CPR), and preventive health~~
15 ~~practices required by Section 1596.866.~~

16 ~~(b) (1) The authority shall establish a process for the ongoing~~
17 ~~review and approval of training programs in pediatric first aid,~~
18 ~~pediatric CPR, and preventive health practices as specified in~~
19 ~~paragraph (2) of subdivision (a) of Section 1596.866 to ensure~~
20 ~~that those programs meet the minimum standards established~~
21 ~~pursuant to subdivision (a). The authority shall charge fees equal~~
22 ~~to its costs incurred for the pediatric first aid and pediatric CPR~~
23 ~~training standards program and for the ongoing review and~~
24 ~~approval of these programs. The initial approval of training~~
25 ~~programs in pediatric first aid, pediatric CPR, and preventative~~
26 ~~health practices shall be placed on probation for the first six~~
27 ~~months of the initial two-year approval cycle, during which time~~
28 ~~the training program shall not possess a vested right or property~~
29 ~~interest in the training program approval. Upon receipt of~~
30 ~~credible evidence of a violation of subdivision (f), the authority~~
31 ~~may rescind the probationary approval by providing written~~
32 ~~notice to the program director of the training program at his or~~
33 ~~her last known address on file with the authority. A training~~
34 ~~program whose probationary approval has been rescinded shall~~
35 ~~have all the due process rights associated with the denial of an~~
36 ~~initial training program approval.~~

37 ~~(2) The authority shall establish, in consultation with experts~~
38 ~~in pediatric first aid, pediatric CPR, and preventive health~~
39 ~~practices, a process to ensure the quality of the training~~
40 ~~programs, including, but not limited to, a method for assessing~~

1 the appropriateness of the courses and the qualifications of the
2 instructors.

3 (e) (1) ~~The authority may charge a fee equal to its costs~~
4 ~~incurred for the preventive health practices program and for the~~
5 ~~initial review and approval and renewal of approval of the~~
6 ~~program.~~

7 (2) ~~If the authority chooses to establish a fee process based on~~
8 ~~the use of course completion cards for the preventive health~~
9 ~~practices program, the cost shall not exceed seven dollars (\$7)~~
10 ~~per card for each training participant until January 1, 2001, at~~
11 ~~which time the authority may evaluate its administrative costs.~~
12 ~~After evaluation of the costs, the authority may establish a new~~
13 ~~fee scale for the cards so that revenue does not exceed the costs~~
14 ~~of the ongoing review and approval of the preventive health~~
15 ~~practices training.~~

16 (d) ~~For the purposes of this section, “training programs”~~
17 ~~means programs that apply for approval by the authority to~~
18 ~~provide the training in pediatric first aid, pediatric CPR, or~~
19 ~~preventive health practices as specified in paragraph (2) of~~
20 ~~subdivision (a) of Section 1596.866. Training programs include~~
21 ~~all affiliated programs that also provide any of the~~
22 ~~authority-approved training required by this division. “Affiliated~~
23 ~~programs” means programs that are overseen by persons or~~
24 ~~organizations that have an authority-approved training program~~
25 ~~in pediatric first aid, pediatric CPR, or preventive health~~
26 ~~practices. Affiliated programs also include programs that have~~
27 ~~purchased an authority-approved training program in pediatric~~
28 ~~first aid, pediatric CPR, or preventive health practices. Training~~
29 ~~programs and their affiliated programs shall comply with this~~
30 ~~division and with the regulations adopted by the authority~~
31 ~~pertaining to training programs in pediatric first aid, pediatric~~
32 ~~CPR, or preventive health practices.~~

33 (e) ~~The director of the authority may, in accordance with~~
34 ~~regulations adopted by the authority, deny, suspend, or revoke~~
35 ~~any approval issued under this division or may place any~~
36 ~~approved program on probation, upon the finding by the director~~
37 ~~of the authority of an imminent threat to the public health and~~
38 ~~safety as evidenced by the occurrence of any of the actions listed~~
39 ~~in subdivision (f).~~

1 ~~(f) Any of the following actions shall be considered evidence~~
2 ~~of a threat to the public health and safety, and may result in the~~
3 ~~denial, suspension, probation, or revocation of a program's~~
4 ~~approval or application for approval pursuant to this division.~~

5 ~~(1) Fraud.~~

6 ~~(2) Incompetence.~~

7 ~~(3) The commission of any fraudulent, dishonest, or corrupt~~
8 ~~act that is substantially related to the qualifications, functions,~~
9 ~~and duties of training program directors and instructors.~~

10 ~~(4) Conviction of any crime that is substantially related to the~~
11 ~~qualifications, functions, and duties of training program directors~~
12 ~~and instructors. The record of conviction or a certified copy of~~
13 ~~the record shall be conclusive evidence of the conviction.~~

14 ~~(5) Violating or attempting to violate, directly or indirectly, or~~
15 ~~assisting in or abetting the violation of, or conspiring to violate,~~
16 ~~this division or the regulations promulgated by the authority~~
17 ~~pertaining to the review and approval of training programs in~~
18 ~~pediatric first aid, pediatric CPR, and preventive health practices~~
19 ~~as specified in paragraph (2) of subdivision (a) of Section~~
20 ~~1596.866.~~

21 ~~(g) (1) If the authority determines that a person had~~
22 ~~previously applied for or held a pediatric first aid, pediatric CPR,~~
23 ~~or preventative health and safety training program under this~~
24 ~~division, and the application was denied, or the training program~~
25 ~~approval was revoked pursuant to subdivision (f), the authority~~
26 ~~shall reject the application or petition for reinstatement in~~
27 ~~accordance with the following:~~

28 ~~(A) If the applicant or training program director requested a~~
29 ~~hearing, the authority shall reject the application or petition for~~
30 ~~reinstatement until two years has elapsed from the effective date~~
31 ~~of the decision and order of the authority upholding the denial or~~
32 ~~revocation.~~

33 ~~(B) If the applicant or training program director did not~~
34 ~~request a hearing, the authority shall reject the application or~~
35 ~~petition for reinstatement until two years has elapsed from the~~
36 ~~date that notification of the denial or revocation was mailed to~~
37 ~~the applicant or training program director.~~

38 ~~(2) An exception to the two-year waiting period provided for~~
39 ~~in paragraph (1) shall apply under either of the following~~
40 ~~circumstances:~~

1 ~~(A) If the applicant or training program director was banned~~
2 ~~from training program approval pursuant to subdivision (f), and~~
3 ~~the two-year waiting period would extend beyond the banned~~
4 ~~period, the application or petition for reinstatement shall be~~
5 ~~adopted once the banned period expires.~~

6 ~~(B) If the applicant or training program director was banned~~
7 ~~from training program approval pursuant to subdivision (f), and~~
8 ~~the two-year waiting period does not extend beyond the banned~~
9 ~~period, the authority shall reject the application or petition for~~
10 ~~reinstatement until the banned period expires.~~

11 ~~(h) In order to ensure that adequate qualified training~~
12 ~~programs are available to provide training in the preventive~~
13 ~~health practices course to all persons who are required to have~~
14 ~~that training, the authority may, after approval of the~~
15 ~~Commission on Emergency Medical Services pursuant to Section~~
16 ~~1799.50, establish temporary standards for training programs for~~
17 ~~use until permanent standards are adopted pursuant to Chapter~~
18 ~~3.5 (commencing with Section 11340) of Part 1 of Division 3 of~~
19 ~~Title 2 of the Government Code.~~

20 ~~(i) Persons who, prior to the date on which the amendments to~~
21 ~~this section enacted in 1998 become operative, have completed a~~
22 ~~course or courses in preventive health practices as specified in~~
23 ~~subparagraph (C) of paragraph (2) of subdivision (a) of Section~~
24 ~~1596.866, and have a certificate of completion card for a course~~
25 ~~or courses in preventive health practices, or certified copies of~~
26 ~~transcripts that identify the number of hours and the specific~~
27 ~~course or courses taken for training in preventive health practices~~
28 ~~shall be deemed to have met the requirement for training in~~
29 ~~preventive health practices.~~

30 ~~SEC. 11.~~

31 ~~SEC. 8.~~ Section 106722 is added to the Health and Safety
32 Code, to read:

33 106722. The department may deny, ~~award~~, amend, revoke,
34 suspend, or restrict a registration issued pursuant to this article
35 when, in the judgment of the department, a person's background
36 or behavior bears materially on that person's ability to safely
37 perform activities under the registration.

38 ~~SEC. 12.~~

39 ~~SEC. 9.~~ Section 106877 is added to the Health and Safety
40 Code, to read:

1 106877. The department may deny, ~~award~~, amend, revoke,
2 suspend, or restrict a certification issued under this article when,
3 in the judgment of the department, a person's background or
4 behavior bears materially on that person's ability to safely
5 perform activities under the certification. The department may
6 conduct informal proceedings pursuant to this section. The
7 results of the informal proceedings may be appealed to an
8 administrative law judge. Unless appealed within 30 days, the
9 findings of the department in the informal proceedings shall be
10 final.

11 ~~SEC. 13.~~

12 *SEC. 10.* Section 107080 of the Health and Safety Code is
13 amended to read:

14 107080. (a) The application fee for any certificate or permit
15 issued pursuant to the Radiologic Technology Act (Section 27)
16 shall be established by the department in an amount as it deems
17 reasonably necessary to carry out the purpose of that act.

18 (b) The fee for any examination conducted pursuant to the
19 Radiologic Technology Act (Section 27) after failure of that
20 examination within the previous 12 months shall be fixed by the
21 department in an amount it deems reasonably necessary to carry
22 out that act.

23 (c) The annual renewal fee for each certificate or permit shall
24 be fixed by the department in an amount it deems reasonably
25 necessary to carry out the Radiologic Technology Act (Section
26 27).

27 (d) The penalty fee for renewal of any certificate or permit if
28 application is made after its date of expiration shall be five
29 dollars (\$5) and shall be in addition to the fee for renewal
30 prescribed by subdivision (c).

31 (e) The fee for a duplicate certificate or permit shall be one
32 dollar (\$1).

33 (f) No fee shall be required for a certificate or permit or a
34 renewal thereof except as prescribed in the Radiologic
35 Technology Act (Section 27).

36 ~~SEC. 14.~~

37 *SEC. 11.* Section 111615 of the Health and Safety Code is
38 amended to read:

39 111615. No person shall manufacture any drug or device in
40 this state unless he or she has a valid license from the

1 department. The license is valid for ~~two calendar years from the~~
2 ~~date of issue~~ *one or two calendar years, from the date of issue,*
3 *depending on the schedule agreed to in the manufacturer's*
4 *licensing application*, unless it is revoked. The license is not
5 transferable.

6 The department may require any manufacturer, wholesaler, or
7 importer of any prescription ophthalmic device in this state to
8 obtain a license.

9 ~~SEC. 15.~~

10 *SEC. 12.* Section 111625 of the Health and Safety Code is
11 amended to read:

12 111625. A license application shall be completed *annually or*
13 *biennially* and accompanied by an application fee as prescribed
14 ~~in Section 111630~~ *Sections 111630 and 111656.1*. This fee is not
15 refundable if the license is refused.

16 ~~SEC. 16.~~

17 *SEC. 13.* Section 115065 of the Health and Safety Code is
18 amended to read:

19 115065. (a) Notwithstanding Section 6103 of the
20 Government Code, the department shall provide by regulation a
21 schedule of the fees that shall be paid by the following persons:

22 (1) Persons possessing radioactive materials under licenses
23 issued by the department or under other state or federal licenses
24 for the use of these radioactive materials, when these persons use
25 these radioactive materials in the state in accordance with the
26 regulations adopted pursuant to subdivision (d) of Section
27 115060.

28 (2) Persons generally licensed for the use of devices and
29 equipment utilizing radioactive materials that are designed and
30 manufactured for the purpose of detecting, measuring, gauging,
31 or controlling thickness, density, level, interface location,
32 radiation, leakage, or qualitative or quantitative chemical
33 composition, or for producing light or an ionized atmosphere, if
34 the devices are manufactured pursuant to a specific license
35 authorizing distribution to general licensees.

36 (b) The revenues derived from the fees shall be used, together
37 with other funds made available therefor, for the purpose of the
38 issuance of licenses or the inspection and regulation of the
39 licensees.

(c) The department may adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code to establish and adjust fees for radioactive materials licenses in an amount to produce estimated revenues equal to at least 95 percent of the department's costs in carrying out these licensing requirements, if the new fees were to remain in effect throughout the fiscal year for which the fee is established or adjusted.

(d) A local agency participating in a negotiated agreement pursuant to Section 114990 shall be fully reimbursed for direct and indirect costs based upon activities governed by Section 115070. With respect to these agreements, any salaries, benefits, and other indirect costs shall not exceed comparable costs of the department.

(e) The fees for licenses for radioactive materials and of devices and equipment utilizing those materials shall be adjusted annually pursuant to Section 100425.

(f) The department shall establish fees *to recover its actual cost* for followup inspections related to the failure to correct violations of this chapter or regulations adopted pursuant to this chapter. The fees established by the department may be charged for each inspection visit, *and may include employee hourly rates, travel time, supplies, report preparation, or consultant fees.*

~~SEC. 17.~~

SEC. 14. Section 115080 of the Health and Safety Code is amended to read:

115080. (a) Notwithstanding Section 6103 of the Government Code, the department shall provide by regulation a ranking of priority for inspection, as determined by the degree of potentially damaging exposure of persons by ionizing radiation and the requirements of Section 115085, and a schedule of fees, based upon that priority ranking, that shall be paid by persons possessing sources of ionizing radiation that are subject to registration in accordance with subdivisions (b) and (e) of Section 115060, and regulations adopted pursuant thereto. The revenues derived from the fees shall be used, together with other funds made available therefor, for the purpose of carrying out any inspections of the sources of ionizing radiation required by this chapter or regulations adopted pursuant thereto. The fees shall, together with any other funds made available to the

1 department, be sufficient to cover the costs of administering this
2 chapter, and shall be set in amounts intended to cover the costs of
3 administering this chapter for each priority source of ionizing
4 radiation. Revenues generated by the fees shall not offset any
5 general funds appropriated for the support of the radiologic
6 programs authorized pursuant to this chapter, and the Radiologic
7 Technology Act (Section 27), and Chapter 7.6 (commencing with
8 Section 114960). Persons who pay fees shall not be required to
9 pay, directly or indirectly, for the share of the costs of
10 administering this chapter of those persons for whom fees are
11 waived. The department shall take into consideration any
12 contract payment from the Health Care Financing Administration
13 for performance of inspections for Medicare certification and
14 shall reduce this fee accordingly.

15 (b) A local agency participating in a negotiated agreement
16 pursuant to Section 114990 shall be fully reimbursed for direct
17 and indirect costs based upon activities governed by Section
18 115085. With respect to these agreements, any salaries, benefits,
19 and other indirect costs shall not exceed comparable costs of the
20 department. Any changes in the frequency of inspections or the
21 level of reimbursement to local agencies made by this section or
22 Section 115085 during the 1985–86 Regular Session shall not
23 affect ongoing contracts.

24 (c) The fees paid by persons possessing sources of ionizing
25 radiation shall be adjusted annually pursuant to Section 100425.

26 (d) The department shall establish two different registration
27 fees for mammography equipment pursuant to this section based
28 upon whether the equipment is accredited by an independent
29 accrediting agency recognized under the federal Mammography
30 Quality Standards Act (42 U.S.C. Sec. 263b).

31 (e) The department shall establish fees *to recover its actual*
32 *costs* for followup inspections related to the failure to correct
33 violations of this chapter or regulations adopted pursuant to this
34 chapter. The fees established by the department may be charged
35 for each inspection visit, *and may include employee hourly rates,*
36 *travel time, supplies, report preparation, or consultant fees.*

37 ~~SEC. 18.~~

38 *SEC. 15.* Section 116735 of the Health and Safety Code is
39 amended to read:

1 116735. (a) In order to carry out the purposes of this chapter,
2 any duly authorized representative of the department may, at any
3 reasonable hour of the day, do any of the following:

4 (1) Enter and inspect any public water system or any place
5 where the public water system records are stored, kept, or
6 maintained.

7 (2) Inspect and copy any records, reports, test results, or other
8 information required to carry out this chapter.

9 (3) Set up and maintain monitoring equipment for purposes of
10 assessing compliance with this chapter.

11 (4) Obtain samples of the water supply.

12 (5) Photograph any portion of the system, any activity, or any
13 sample taken.

14 (b) The department shall inspect each public water system, as
15 follows:

16 (1) A system with any surface water source with treatment,
17 annually.

18 (2) A system with any groundwater source subject to treatment
19 with only groundwater sources, biennially.

20 (3) A system with only groundwater sources not subject to
21 treatment, every three years.

22 (c) Nothing in this section shall prohibit the department from
23 inspecting public water systems on a more frequent basis. An
24 opportunity shall be provided for a representative of the public
25 water system to accompany the representative of the department
26 during the inspection of the water system.

27 (d) It shall be a misdemeanor for any person to prevent,
28 interfere with, or attempt to impede in any way any duly
29 authorized representative of the department from undertaking the
30 activities authorized by subdivision (a).

31 ~~SEC. 19.~~

32 *SEC. 16.* Section 117971 is added to the Health and Safety
33 Code, to read:

34 117971. Notwithstanding Section 117995, the department, in
35 the implementation of this part, shall recover its actual costs for
36 services related to large quantity medical waste generator
37 followup inspections and enforcement activities necessary to
38 ensure compliance with this part. In no event shall the
39 department charge more than the actual costs incurred by the

1 department. *Fees may include employee hourly rates, travel time,*
2 *supplies, report preparation, or consultant fees.*

3 ~~SEC. 20.~~

4 *SEC. 17.* Section 117995 of the Health and Safety Code is
5 amended to read:

6 117995. The registration and annual permit fee for large
7 quantity generators shall be set in following amounts:

8 (a) (1) A general acute care hospital, as defined in subdivision
9 (a) of Section 1250, that has one or more beds, but not more than
10 99 beds, shall pay six hundred dollars (\$600), a facility with 100
11 or more beds, but not more than 199 beds, shall pay eight
12 hundred sixty dollars (\$860), a facility with 200 or more beds,
13 but not more than 250 beds shall pay one thousand one hundred
14 dollars (\$1,100), and a facility with 251 or more beds shall pay
15 one thousand four hundred dollars (\$1,400).

16 (2) In addition to the fees specified in paragraph (1), a general
17 acute care hospital which is providing onsite treatment of
18 medical waste shall pay an annual medical waste treatment
19 facility inspection and permit fee of three hundred dollars (\$300),
20 if the facility has one or more beds but not more than 99 beds,
21 five hundred dollars (\$500), if the facility has 100 or more beds
22 but not more than 250 beds, and one thousand dollars (\$1,000), if
23 the facility has 251 or more beds.

24 (b) A specialty clinic, providing surgical, dialysis, or
25 rehabilitation services, as defined in subdivision (b) of Section
26 1204, shall pay three hundred fifty dollars (\$350).

27 (c) A skilled nursing facility, as defined in subdivision (c) of
28 Section 1250, that has one or more beds, but not more than 99
29 beds shall pay two hundred seventy-five dollars (\$275), a facility
30 with 100 or more beds, but not more than 199 beds shall pay
31 three hundred fifty dollars (\$350), and a facility with 200 or more
32 beds shall pay four hundred dollars (\$400).

33 (d) An acute psychiatric hospital, as defined in subdivision (b)
34 of Section 1250, shall pay two hundred dollars (\$200).

35 (e) An intermediate care facility, as defined in subdivision (d)
36 of Section 1250, shall pay three hundred dollars (\$300).

37 (f) A primary care clinic, as defined in Section 1200.1, shall
38 pay three hundred fifty dollars (\$350).

(g) A licensed clinical laboratory, as defined in paragraph (3) of subdivision (a) of Section 1206 of the Business and Professions Code, shall pay two hundred dollars (\$200).

(h) A health care service plan facility, as defined in subdivision (f) of Section 1345, shall pay three hundred fifty dollars (\$350).

(i) A veterinary clinic or veterinary hospital shall pay two hundred dollars (\$200).

(j) A large quantity generator medical office shall pay two hundred dollars (\$200).

(k) In addition to the fees specified in subdivisions (b) to (j), inclusive, a large quantity generator of medical waste which is providing onsite treatment of medical waste shall pay an annual medical waste treatment facility inspection and permit fee of three hundred dollars (\$300).

(l) The department may collect annual fees and issue permits on a biennial basis.

~~SEC. 21. Section 5405 of the Welfare and Institutions Code is amended to read:~~

~~5405. (a) This section shall apply to each facility licensed by the State Department of Mental Health, or its delegated agent, on or after January 1, 2003. For purposes of this section, "facility" includes psychiatric health facilities, as defined in Section 1250.2 of the Health and Safety Code, licensed pursuant to Chapter 9 (commencing with Section 77001) of Division 5 of Title 22 of the California Code of Regulations and mental health rehabilitation centers licensed pursuant to Chapter 3.5 (commencing with Section 781.00) of Division 1 of Title 9 of the California Code of Regulations.~~

~~(b) (1) (A) Prior to the initial licensure or first renewal of a license on or after January 1, 2003, of any person to operate or manage a facility specified in subdivision (a), the department shall submit fingerprint images and related information pertaining to the applicant or licensee to the Department of Justice for purposes of a criminal record check, as specified in paragraph (2), at the expense of the applicant or licensee. The Department of Justice shall provide the results of the criminal record check to the department. The department may take into consideration information obtained from or provided by other government agencies. The department shall determine whether~~

1 the applicant or licensee has ever been convicted of a crime
2 specified in subdivision (c). The department shall submit
3 fingerprint images and related information each time the position
4 of administrator, manager, program director, or fiscal officer of a
5 facility is filled and prior to actual employment for initial
6 licensure or an individual who is initially hired on or after
7 January 1, 2003. For purposes of this subdivision, "applicant"
8 and "licensee" include the administrator, manager, program
9 director, or fiscal officer of a facility.

10 (B) Commencing January 1, 2003, upon the employment of, or
11 contract with or for, any direct care staff the department shall
12 submit fingerprint images and related information pertaining to
13 the direct care staff person to the Department of Justice for
14 purposes of a criminal record check, as specified in paragraph
15 (2), at the expense of the direct care staff person or licensee. The
16 Department of Justice shall provide the results of the criminal
17 record check to the department. The department shall determine
18 whether the direct care staff person has ever been convicted of a
19 crime specified in subdivision (c). The department shall notify
20 the licensee of these results. No direct client contact by the
21 trainee or newly hired staff, or by any direct care contractor shall
22 occur prior to clearance by the department unless the trainee,
23 newly hired employee, contractor, or employee of the contractor
24 is constantly supervised.

25 (C) Commencing January 1, 2003, any contract for services
26 provided directly to patients or residents shall contain provisions
27 to ensure that the direct services contractor submits to the
28 department fingerprint images and related information pertaining
29 to the direct services contractor for submission to the Department
30 of Justice for purposes of a criminal record check, as specified in
31 paragraph (2), at the expense of the direct services contractor or
32 licensee. The Department of Justice shall provide the results of
33 the criminal record check to the department. The department
34 shall determine whether the direct services contractor has ever
35 been convicted of a crime specified in subdivision (c). The
36 department shall notify the licensee of these results.

37 (2) The applicant, licensee, direct care staff person, or direct
38 services contractor specified in paragraph (1) shall submit to the
39 department a statement signed under penalty of perjury that
40 discloses any prior criminal convictions and prior

1 government-imposed disciplinary actions specified in subdivision
2 (a), or that states that he or she has no prior convictions or
3 government disciplinary actions. If the applicant, licensee, direct
4 care staff person, or direct services contractor specified in
5 paragraph (1) has resided in California for at least the previous
6 seven years, the department shall only require the submission of
7 one set of fingerprint images and related information. The
8 Department of Justice shall charge a fee sufficient to cover the
9 reasonable cost of processing the fingerprint submission.
10 Fingerprints submitted pursuant to this subdivision include
11 fingerprints taken by the use of live scan technology. When
12 requested, the Department of Justice shall forward one set of
13 fingerprint images to the Federal Bureau of Investigation for the
14 purpose of obtaining any record of previous convictions or
15 arrests pending adjudication of the applicant, licensee, direct care
16 staff person, or direct services contractor. The results of a
17 criminal record check provided by the Department of Justice
18 shall contain every conviction rendered against an applicant,
19 licensee, direct care staff person, or direct services contractor,
20 and every offense for which the applicant, licensee, direct care
21 staff person, or direct services contractor is presently awaiting
22 trial, whether the person is incarcerated or has been released on
23 bail or on his or her own recognizance pending trial. The
24 department shall request subsequent arrest notification from the
25 Department of Justice pursuant to Section 11105.2 of the Penal
26 Code.

27 (e) (1) The department shall deny any application for any
28 license, suspend or revoke any existing license, and disapprove
29 or revoke any employment or contract for direct services, if the
30 applicant, licensee, employee, or direct services contractor has
31 been convicted of, or incarcerated for, a felony defined in
32 subdivision (e) of Section 667.5 of, or subdivision (e) of Section
33 1192.7 of, the Penal Code, within the preceding 10 years.

34 (2) The application for licensure or renewal of any license
35 shall be denied, and any employment or contract to provide direct
36 services shall be disapproved or revoked, if the criminal record of
37 the person includes a conviction in another jurisdiction for an
38 offense that, if committed or attempted in this state, would have
39 been punishable as one or more of the offenses referred to in
40 paragraph (1).

1 ~~(3) (A) The department shall deny any application for any~~
2 ~~license, and suspend or revoke any existing license, and~~
3 ~~disapprove or revoke any employment or contract for direct~~
4 ~~services, if the applicant, licensee, employee, or direct services~~
5 ~~contractor has been convicted of, or incarcerated for, any crime~~
6 ~~listed in subparagraph (B) within the preceding 10 years or any~~
7 ~~crime listed in subparagraph (C) within the preceding five years.~~

8 ~~(B) Any violation of Section 246, subdivision (a) or (g) of~~
9 ~~Section 273, subdivision (b) of Section 417, subdivision (a) or~~
10 ~~(b) of Section 451, Section 459, subdivision (a) of Section 460,~~
11 ~~Section 503, or Section 518 of the Penal Code, while~~
12 ~~participating in a criminal street gang, as defined in subdivision~~
13 ~~(f) of Section 186.22 of the Penal Code.~~

14 ~~(C) Any violation of Section 71, 76, 192, 242, 273.5, 273.6,~~
15 ~~422, 470, 475, 484, 487, 488, or 496 of the Penal Code, any~~
16 ~~violation of Section 597 or 647d of the Penal Code resulting in a~~
17 ~~felony conviction, and any conviction in which an enhancement~~
18 ~~for the use of a firearm is imposed under Section 12022.53 of the~~
19 ~~Penal Code.~~

20 ~~(4) Any individual denied employment pursuant to this section~~
21 ~~shall be ineligible to reapply for employment for a minimum of~~
22 ~~two years from the date of denial or at the expiration of the~~
23 ~~specified five- or 10-year period, whichever is applicable as~~
24 ~~determined by the department.~~

25 ~~(d) (1) The department may approve an application for, or~~
26 ~~renewal of, a license, or continue any employment or contract for~~
27 ~~direct services, if the person has been convicted of a~~
28 ~~misdemeanor offense that is not a crime upon the person of~~
29 ~~another, the nature of which has no bearing upon the duties for~~
30 ~~which the person will perform as a licensee, direct care staff~~
31 ~~person, or direct services contractor. In determining whether to~~
32 ~~approve the application, employment, or contract for direct~~
33 ~~services, the department shall take into consideration the factors~~
34 ~~enumerated in paragraph (2).~~

35 ~~(2) Notwithstanding subdivision (c), if the criminal record of a~~
36 ~~person indicates any conviction other than a minor traffic~~
37 ~~violation, the department may deny the application for license or~~
38 ~~renewal, and may disapprove or revoke any employment or~~
39 ~~contract for direct services. In determining whether or not to~~
40 ~~deny the application for licensure or renewal, or to disapprove or~~

1 ~~revoke any employment or contract for direct services, the~~
2 ~~department shall take into consideration the following factors:~~

3 ~~(A) The nature and seriousness of the offense under~~
4 ~~consideration and its relationship to the person's employment,~~
5 ~~duties, and responsibilities.~~

6 ~~(B) Activities since conviction, including employment or~~
7 ~~participation in therapy or education, that would indicate changed~~
8 ~~behavior.~~

9 ~~(C) The time that has elapsed since the commission of the~~
10 ~~conduct or offense and the number of offenses.~~

11 ~~(D) The extent to which the person has complied with any~~
12 ~~terms of parole, probation, restitution, or any other sanction~~
13 ~~lawfully imposed against the person.~~

14 ~~(E) Any rehabilitation evidence, including character~~
15 ~~references, submitted by the person.~~

16 ~~(F) Employment history and current employer~~
17 ~~recommendations.~~

18 ~~(G) Circumstances surrounding the commission of the offense~~
19 ~~that would demonstrate the unlikelihood of repetition.~~

20 ~~(H) The granting by the Governor of a full and unconditional~~
21 ~~pardon.~~

22 ~~(I) A certificate of rehabilitation from a superior court.~~

23 ~~(e) Denial, suspension, or revocation of a license, or~~
24 ~~disapproval or revocation of any employment or contract for~~
25 ~~direct services specified in subdivision (c) and paragraph (2) of~~
26 ~~subdivision (d) are not subject to appeal, except as provided in~~
27 ~~subdivision (f).~~

28 ~~(f) After a review of the record, the director may grant an~~
29 ~~exemption from denial, suspension, or revocation of any license,~~
30 ~~or disapproval of any employment or contract for direct services,~~
31 ~~if the crime for which the person was convicted was a property~~
32 ~~crime that did not involve injury to any person and the director~~
33 ~~has substantial and convincing evidence to support a reasonable~~
34 ~~belief that the person is of such good character as to justify~~
35 ~~issuance or renewal of the license or approval of the employment~~
36 ~~or contract.~~

37 ~~(g) A plea or verdict of guilty, or a conviction following a plea~~
38 ~~of nolo contendere shall be deemed a conviction within the~~
39 ~~meaning of this section. The department may deny any~~
40 ~~application, or deny, suspend, or revoke a license, or disapprove~~

1 or revoke any employment or contract for direct services based
2 on a conviction specified in subdivision (c) when the judgment of
3 conviction is entered or when an order granting probation is
4 made suspending the imposition of sentence.

5 (h) (1) For purposes of this section, "direct care staff" means
6 any person who is an employee, contractor, or volunteer who has
7 contact with other patients or residents in the provision of
8 services. Administrative and licensed personnel shall be
9 considered direct care staff when directly providing program
10 services to participants.

11 (2) An additional background check shall not be required
12 pursuant to this section if the direct care staff or licensee has
13 received a prior criminal history background check while
14 working in a mental health rehabilitation center or psychiatric
15 health facility licensed by the department, and provided the
16 department has maintained continuous subsequent arrest
17 notification on the individual from the Department of Justice
18 since the prior criminal background check was initiated.

19 (3) When an application is denied on the basis of a conviction
20 pursuant to this section, the department shall provide the
21 individual whose application was denied with notice, in writing,
22 of the specific grounds for the proposed denial.

23 (4) State departments and agencies may share information
24 regarding final administrative actions taken by individual
25 departments and criminal record information that is not otherwise
26 prohibited from disclosure by the Department of Justice for
27 applicants, pursuant to this section.

28 (5) State departments and agencies may take action with
29 respect to applicants and licensees based on information obtained
30 from other state departments and agencies if the information
31 indicates that the conduct of the applicant or licensee has been
32 inimical to the clients or the public.

33 ~~SEC. 22.~~

34 *SEC. 18.* Section 5675.2 of the Welfare and Institutions Code
35 is amended to read:

36 5675.2. (a) There is hereby created in the State Treasury the
37 Mental Health Licensing and Certification Fund, from which
38 money, upon appropriation by the Legislature, shall be expended
39 by the State Department of Mental Health to fund administrative

1 and other activities in support of the licensing and certification
2 program administered by the department.

3 (b) Commencing January 1, 2005, each new and renewal
4 application for a license to operate a mental health rehabilitation
5 center shall be accompanied by an application or renewal fee.

6 (c) The amount of the fees shall be determined and collected
7 by the State Department of Mental Health, but the total amount
8 of the fees collected shall not exceed the actual costs of licensure
9 and regulation of the centers, including, but not limited to, the
10 costs of processing the application, inspection costs, and other
11 related costs.

12 (d) Each license or renewal issued pursuant to this chapter
13 shall may be issued for 12 months, for 24 months, or for an
14 indefinite period based on each facility's documented compliance
15 or lack of compliance with applicable requirements. Each facility
16 shall file an application for renewal every 12 months or 24
17 months, whichever is applicable with respect to licenses issued
18 for 12 or 24 months, or, if a license issued for an indefinite
19 period is revoked, the licensee shall apply for renewal or for a
20 new license within 30 days after the revocation. Application for
21 renewal of the license shall be accompanied by the necessary fee
22 and shall be filed with the department at least 30 days prior to the
23 expiration date. Failure to file a timely renewal may result in
24 expiration of the license.

25 (e) License and renewal fees collected pursuant to this section
26 shall be deposited into the Mental Health Licensing and
27 Certification Fund.

28 (f) Fees collected by the department pursuant to this section
29 shall be expended by the department for the purpose of ensuring
30 the health and safety of all individuals provided care and
31 supervision by licensees and to support activities of the licensing
32 and certification program, including, but not limited to,
33 monitoring facilities for compliance with applicable laws and
34 regulations.

35 (g) The department may establish a provisional license
36 category for new licensees for up to 24 months that may be
37 terminated for good cause.

38 (h) The department may make additional charges to the
39 facilities, if additional visits are required to ensure that corrective
40 action is taken by the licensee.

1 (i) Any law enforcement agencies receiving reports of
2 incidents at any facility licensed under this section shall notify
3 the department of incidents reported to them by each facility.

4 ~~SEC. 23.~~

5 *SEC. 19.* No reimbursement is required by this act pursuant
6 to Section 6 of Article XIII B of the California Constitution
7 because the only costs that may be incurred by a local agency or
8 school district will be incurred because this act creates a new
9 crime or infraction, eliminates a crime or infraction, or changes
10 the penalty for a crime or infraction, within the meaning of
11 Section 17556 of the Government Code, or changes the
12 definition of a crime within the meaning of Section 6 of Article
13 XIII B of the California Constitution.